

109TH CONGRESS
1ST SESSION

S. _____

To provide for loan repayment for prosecutors and public defenders.

IN THE SENATE OF THE UNITED STATES

Mr. DURBIN (for himself, Mr. SPECTER, Mr. DEWINE, Mr. LEAHY, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. HARKIN, Mr. AKAKA, Mr. LAUTENBERG, Ms. CANTWELL, and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To provide for loan repayment for prosecutors and public
defenders.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prosecutors and De-
5 fenders Incentive Act of 2005”.

1 **SEC. 2. LOAN REPAYMENT FOR PROSECUTORS AND DE-**
2 **FENDERS.**

3 Title I of the Omnibus Crime Control and Safe
4 Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended
5 by adding at the end the following:

6 **“PART HH—LOAN REPAYMENT FOR**
7 **PROSECUTORS AND PUBLIC DEFENDERS**

8 **“SEC. 2901. GRANT AUTHORIZATION.**

9 “(a) PURPOSE.—The purpose of this section is to en-
10 courage qualified individuals to enter and continue em-
11 ployment as prosecutors and public defenders.

12 “(b) DEFINITIONS.—In this section:

13 “(1) PROSECUTOR.—The term ‘prosecutor’
14 means a full-time employee of a State or local agen-
15 cy who—

16 “(A) is continually licensed to practice law;
17 and

18 “(B) prosecutes criminal cases at the State
19 or local level.

20 “(2) PUBLIC DEFENDER.—The term ‘public de-
21 fender’ means an attorney who—

22 “(A) is continually licensed to practice law;
23 and

24 “(B) is—

25 “(i) a full-time employee of a State or
26 local agency or a nonprofit organization

1 operating under a contract with a State or
2 unit of local government, that provides
3 legal representation to indigent persons in
4 criminal cases; or

5 “(ii) employed as a full-time Federal
6 defender attorney in a defender organiza-
7 tion established pursuant to subsection (g)
8 of section 3006A of title 18, United States
9 Code, that provides legal representation to
10 indigent persons in criminal cases.

11 “(3) STUDENT LOAN.—The term ‘student loan’
12 means—

13 “(A) a loan made, insured, or guaranteed
14 under part B of title IV of the Higher Edu-
15 cation Act of 1965 (20 U.S.C. 1071 et seq.);

16 “(B) a loan made under part D or E of
17 title IV of the Higher Education Act of 1965
18 (20 U.S.C. 1087a et seq. and 1087aa et seq.);
19 and

20 “(C) a loan made under section 428C or
21 455(g) of the Higher Education Act of 1965
22 (20 U.S.C. 1078–3 and 1087e(g)) to the extent
23 that such loan was used to repay a Federal Di-
24 rect Stafford Loan, a Federal Direct Unsub-

1 sidized Stafford Loan, or a loan made under
2 section 428 or 428H of such Act.

3 “(c) PROGRAM AUTHORIZED.—The Attorney General
4 shall establish a program by which the Department of Jus-
5 tice shall assume the obligation to repay a student loan,
6 by direct payments on behalf of a borrower to the holder
7 of such loan, in accordance with subsection (d), for any
8 borrower who—

9 “(1) is employed as a prosecutor or public de-
10 fender; and

11 “(2) is not in default on a loan for which the
12 borrower seeks forgiveness.

13 “(d) TERMS OF AGREEMENT.—

14 “(1) IN GENERAL.—To be eligible to receive re-
15 payment benefits under subsection (c), a borrower
16 shall enter into a written agreement that specifies
17 that—

18 “(A) the borrower will remain employed as
19 a prosecutor or public defender for a required
20 period of service of not less than 3 years, unless
21 involuntarily separated from that employment;

22 “(B) if the borrower is involuntarily sepa-
23 rated from employment on account of mis-
24 conduct, or voluntarily separates from employ-
25 ment, before the end of the period specified in

1 the agreement, the borrower will repay the At-
2 torney General the amount of any benefits re-
3 ceived by such employee under this section;

4 “(C) if the borrower is required to repay
5 an amount to the Attorney General under sub-
6 paragraph (B) and fails to repay such amount,
7 a sum equal to that amount shall be recoverable
8 by the Federal Government from the employee
9 (or such employee’s estate, if applicable) by
10 such methods as are provided by law for the re-
11 covery of amounts owed to the Federal Govern-
12 ment;

13 “(D) the Attorney General may waive, in
14 whole or in part, a right of recovery under this
15 subsection if it is shown that recovery would be
16 against equity and good conscience or against
17 the public interest; and

18 “(E) the Attorney General shall make stu-
19 dent loan payments under this section for the
20 period of the agreement, subject to the avail-
21 ability of appropriations.

22 “(2) REPAYMENTS.—

23 “(A) IN GENERAL.—Any amount repaid
24 by, or recovered from, an individual or the es-
25 tate of an individual under this subsection shall

1 be credited to the appropriation account from
2 which the amount involved was originally paid.

3 “(B) MERGER.—Any amount credited
4 under subparagraph (A) shall be merged with
5 other sums in such account and shall be avail-
6 able for the same purposes and period, and sub-
7 ject to the same limitations, if any, as the sums
8 with which the amount was merged.

9 “(3) LIMITATIONS.—

10 “(A) STUDENT LOAN PAYMENT
11 AMOUNT.—Student loan repayments made by
12 the Attorney General under this section shall be
13 made subject to such terms, limitations, or con-
14 ditions as may be mutually agreed upon by the
15 borrower and the Attorney General in an agree-
16 ment under paragraph (1), except that the
17 amount paid by the Attorney General under
18 this section shall not exceed—

19 “(i) \$10,000 for any borrower in any
20 calendar year; or

21 “(ii) an aggregate total of \$60,000 in
22 the case of any borrower.

23 “(B) BEGINNING OF PAYMENTS.—Nothing
24 in this section shall authorize the Attorney Gen-
25 eral to pay any amount to reimburse a borrower

1 for any repayments made by such borrower
2 prior to the date on which the Attorney General
3 entered into an agreement with the borrower
4 under this subsection.

5 “(e) ADDITIONAL AGREEMENTS.—

6 “(1) IN GENERAL.—On completion of the re-
7 quired period of service under an agreement under
8 subsection (d), the borrower and the Attorney Gen-
9 eral may, subject to paragraph (2), enter into an ad-
10 ditional agreement in accordance with subsection
11 (d).

12 “(2) TERM.—An agreement entered into under
13 paragraph (1) may require the borrower to remain
14 employed as a prosecutor or public defender for less
15 than 3 years.

16 “(f) AWARD BASIS; PRIORITY.—

17 “(1) AWARD BASIS.—Subject to paragraph (2),
18 the Attorney General shall provide repayment bene-
19 fits under this section on a first-come, first-served
20 basis, and subject to the availability of appropria-
21 tions.

22 “(2) PRIORITY.—The Attorney General shall
23 give priority in providing repayment benefits under
24 this section in any fiscal year to a borrower who—

1 “(A) received repayment benefits under
2 this section during the preceding fiscal year;
3 and

4 “(B) has completed less than 3 years of
5 the first required period of service specified for
6 the borrower in an agreement entered into
7 under subsection (d).

8 “(g) REGULATIONS.—The Attorney General is au-
9 thorized to issue such regulations as may be necessary to
10 carry out the provisions of this section.

11 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to carry out this section
13 \$25,000,000 for fiscal year 2006 and such sums as may
14 be necessary for each succeeding fiscal year.”.